

REMARKS

The above Amendments and these Remarks are in reply to the outstanding Office Action. Claims 1-6, 8-9, 11-17, and 22-28 are currently pending. Claim 24 is presently cancelled. Claims 1, 4-6, 11, 14, 23, 26 are amended.

Rejection of Claims 1-28 Under 35 U.S.C. §101

Claims 1-28 are rejected claims 1-28 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

The Applicant does not agree with the Examiner's conclusion. For example, performing step (a) to (d) of previous claim 1 resulted in the determination of a number of layouts which are a concrete, useful and tangible result, and hence claim 1 is statutory subject matter.

However, in order to expedite the allowance of the current application, the Applicant has amended the independent claims to specify displaying the selected resulting layout, thereby providing an output in the form of a displayed layout. This step of displaying the selected resulting layout produces a concrete, useful and tangible result.

It is therefore respectfully requested that the rejection of claims 1-28 under 35 U.S.C. §101 be withdrawn.

Rejection of Claims 1 and 11 Under 35 U.S.C. §112,

Claims 1 and 11 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner indicates that claims 1 and 11 contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed had possession of the claim invention.

In particular, the Examiner argues that the specification fails to support the arranging geometrically and "*according to the priorities*" the alphanumeric and/or graphical elements. The Applicant does not agree with the Examiner's conclusion.

In order to expedite the allowance of the current application, the Applicant has clarified claims 1 and 11 to specify at least some of the rules being associated with a priority representing a positional requirement of the particular element, wherein the score of the resulting layout is weighted according to the priority associated with the at least some of the rules.

Support for this clarifying amendment can be found at paragraph 115 where it states "*a priority for each rule that may be applied to the positional requirement of an element*". Paragraph 115 also provides further support where the specification discusses how particular

rules have associated numeric quantities which weight the score of the resulting layout. Further support can be found at paragraph 70, where the specification states “*The interrelations are defined in terms of rules, which are supplemented with one or more weightings which provide a relative measure of the importance of each rule to the intended layout*”.

Based on these reasons, the Applicant respectfully submits that amended claims 1 and 11 are supported by the description. It is therefore respectfully requested that the rejection of claims 1 and 11 under 35 U.S.C. §112, first paragraph be withdrawn. Additionally, in paragraph 7 of the Office action, claims 1 and 11 were rejected based on the above grounds under 35 U.S.C. §112, second paragraph. It is respectfully submitted that the above-described amendment obviates the rejection under the second paragraph of section 112 as well, and it is respectfully requested that the rejection of claims 1 and 11 under 35 U.S.C. §112, second paragraph be withdrawn.

Rejection of Claims 1-6, 8-9, 11-17 and 22-28 Under 35 U.S.C. §103

Claims 1-6, 8-9, 11-17 and 22-28 are rejected under 35 U.S.C. §103 as being unpatentable over *Fukui* (U.S. Patent No. 5,517,621) in view of *Simon* (U.S. Publication No. 2002/0040375).

The Applicant requests reconsideration and withdrawal of the claim rejection in light of the following comments.

The Examiner has stated that on page 32 of the Office Action that:

“The Examiner uses the broadest reasonable interpretation to conclude the predetermined criteria as taught by Simon et al could be a set or prioritized rules regarding arranging...the alphanumeric and/or graphical elements to obtain a resulting layout”.

The Applicant submits that *Simon* fails to teach that the score of the layouts is weighted according to the priority associated with least some of the rules, as specified in both claims 1 and 11.

Simon discloses that the score is determined according to predetermined criteria. *Simon* provides two examples of predetermined criteria: white space between images and aesthetic balance. Each of these predetermined criteria can be used to calculate a value which can be used in a cost function to calculate a score for the page layout.

However, there is no teaching or suggestion in *Simon* as to how two values are to be used in the cost function. The Applicant submits that a person skilled in the art would logically interpret that the predetermined criteria values are likely to be summed together but not that this represents any form of priority.

At best, *Fukui* in view of *Simon* therefore teaches the person skilled in the art to sum together the predetermined criteria values to determine the score for the page layout.

Thus, *Fukui* in view of *Simon* fails to disclose that the score of the resulting layout is weighted according to the priority associated with at least some of the rules, as required by claims 1 and 11. This is clearly not obvious as there is absolutely no teaching or suggestion that one predetermined criteria value of *Simon* should be valued more heavily than another predetermined criteria value, or that any form of priority should be used.

We also note that the Examiner has stated on page 11 of the Office Action that under the broadest interpretation the "*predetermined page format*" was developed based on specific priorities as how the elements are to be arranged. This appears to contradict the statement on page 32 that the "predetermined criteria" could be prioritised rules, and the Applicant would appreciate if the Examiner could clarify what he believes is the priority in *Simon*.

In any event, we respectfully submit that even under the broadest interpretation of predetermined page criteria *Simon* fails to disclose at least some of the rules being associated with a priority, wherein the priority is used to weight the score, as specified in claims 1 and 11.

Thus if the Examiner interprets the predetermined criteria to be the priority, we respectfully submit that there is no suggestion in *Simon* that one predetermined criteria, such as the white space criteria, could have a priority which weights the score more heavily than another predetermined criteria, such as the aesthetic balance criteria.

If, on the other hand, the Examiner interprets the predetermined page format to be the priority, we respectfully submit that the predetermined page format is not used to weight the score.

MPEP 2143 states:

*"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.***

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."
(emphasis added)

As the Applicant has previously stated, *Fukui* in view of *Simon* fails to disclose at least some of the rules being associated with a priority representing a positional requirement of the one

or more particular elements, wherein the method includes the step of scoring the resulting layout according to the one or more rules, and wherein the score of the resulting layout is weighted according to the priority associated with the at least some of the rules.

Therefore, the Applicant respectfully submits that *Fukui* in view of *Simon* fails to satisfy the third basic criteria of a *prima facie* case of obviousness as required under MPEP 2143.

Reconsideration and withdrawal of the claim rejection for claims 1 and 11, and all dependent claims is respectfully requested.

In regard to independent claims 23 and 26, the Examiner has stated on page 32:

“Simon et al teaches the system can automatically iterate through the page layout subroutine generating a predetermined number of image page layouts (0069).”

The Applicant respectfully submits that this overlooks the important requirement of claims 23 and 26 which state that *“the first set of rules also defining a predetermined number of resulting layouts in accordance with a given number of elements”*. The words *“in accordance”* indicate that the number of resulting layouts is dependent upon the number of elements that are being arranged within the defined space.

Although *Simon* may disclose generating a predetermined number of image page layouts, the number of layouts generated is not in accordance with the given number of elements being arranged within the defined space.

Simon teaches using a simulated annealing approach which clearly has no dependency on the number of elements being arranged within the defined space. Although a limit on the number of iterations can be used in the system of *Simon*, there is no disclosure that this limit is in accordance with the number of elements being arranged within the defined space.

Thus, *Fukui* in view of *Simon* fails to disclose that feature of the first set of rules also defining a predetermined number of resulting layouts in accordance with a given number of elements. As such, the third basic criteria to establish a *prima facie* case of obviousness has not been satisfied by the Examiner, as required under MPEP 2143, as *Fukui* in view of *Simon* fails to teach or suggest all claim features.

Reconsideration and withdrawal of the claim rejection for claims 23 and 26, and all dependent claims is respectfully requested.

Based on the above amendments and these remarks, reconsideration of claims 1-6, 8-9, 11-17 and 22-28 is respectfully requested.

The Examiner's prompt attention to this matter is greatly appreciated. Should further questions remain, the Examiner is invited to contact the undersigned attorney by telephone.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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By: /Brian I. Marcus/
Brian I. Marcus
Reg. No. 34,511

VIERRA MAGEN MARCUS & DENIRO LLP
575 Market Street, Suite 2500
San Francisco, California 94105
Telephone: (415) 369-9660
Facsimile: (415) 369-9665